

DOUBLE TAXATION: TAXES ON INCOME

Convention signed at Washington April 29, 1948; protocol of exchange of ratifications signed December 1, 1948

*Senate advice and consent to ratification, with reservations, June 17, 1948*¹

Ratified by the Netherlands November 2, 1948

*Ratified by the President of the United States, with reservations, November 19, 1948*¹

Ratifications exchanged at Washington December 1, 1948

Entered into force December 1, 1948; operative from January 1, 1947

Proclaimed by the President of the United States December 8, 1948

Modified and supplemented to facilitate extension to Netherlands Antilles by protocol of June 15, 1955;² agreement of June 24 and August 7, 1952, and September 15 and November 4 and 10, 1955;³ and protocol of October 23, 1963⁴

Modified and supplemented by convention of December 30, 1965⁵

62 Stat. 1757; Treaties and Other
International Acts Series 1855

CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND THE KINGDOM OF THE NETHERLANDS WITH RESPECT TO TAXES ON INCOME AND CERTAIN OTHER TAXES

The Government of the United States of America and the Government of the Kingdom of the Netherlands, desiring to conclude a convention for

¹ The Senate's resolution of advice and consent contains the following reservations:

"(1) The Government of the United States of America does not accept Article XI of the convention relating to gains from the sale or exchange of capital assets.

"(2) The Government of the United States of America does not accept Article XIII of the convention relating to United States taxation of the undistributed earnings, profits, income or surplus of a Netherlands corporation.

"(3) The Government of the United States of America does not accept Article XIV of the convention relating to settlement of unpaid United States income tax liability unless there be eliminated therefrom, (a) references now appearing therein to Article XIII and (b) any language which might prevent the taxation by the United States of capital gains, if any, taxable under the revenue laws of the United States for the respective years in which such gains were realized."

These reservations were communicated to the Netherlands Government and accepted by it. See protocol of exchange of ratifications, *post*, p. 238.

² 6 UST 3696; TIAS 3366.

³ 6 UST 3703; TIAS 3367.

⁴ 15 UST 1900; TIAS 5665.

⁵ 17 UST 896; TIAS 6051.

the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and certain other taxes, have appointed for that purpose as their respective Plenipotentiaries:

The Government of the United States of America:

Mr. George C. Marshall, Secretary of State, and

The Government of the Kingdom of the Netherlands:

Mr. E. N. van Kleffens, Ambassador Extraordinary and Plenipotentiary of the Kingdom of the Netherlands, who, having communicated to each other their full powers, found in good and due form, have agreed upon the following Articles:

ARTICLE I

- (1) The taxes which are the subject of the present Convention are:
 - (a) In the case of the United States: the Federal income taxes.
 - (b) In the case of the Netherlands:
 - (i) for the application of the provisions of the Convention other than Article XX, the income tax and the Netherlands taxes credited against it, the corporation tax and the Netherlands taxes credited against it, the property tax, and the tax on fees of directors and managers of corporations; and
 - (ii) for the application of Articles XX to XXVIII inclusive (except Articles XXIV and XXVII), the capital accretions tax and the extraordinary capital tax.
- (2) The present Convention shall apply also to any other taxes of a substantially similar character imposed by either Contracting State subsequently to the date of signature of the present Convention, or, by the government of any overseas part of the Kingdom (in the case of the Netherlands) or overseas territory (in the case of the United States) to which the present Convention is extended under Article XXVII, subsequently to the date of the notification of extension.
- (3) In the event of appreciable changes in the fiscal laws of either of the Contracting States the competent authorities of the Contracting States will consult together.

ARTICLE II

- (1) In the present Convention, unless the context otherwise requires:
 - (a) The term "United States" means the United States of America, and when used in a geographical sense means the States, the Territories of Alaska and of Hawaii, and the District of Columbia.
 - (b) The term "Netherlands" means only the Kingdom of the Netherlands in Europe.

(c) The term “United States corporation” means a corporation, association or other organization or juridical entity created in the United States or under the laws of the United States or of any State or territory of the United States.

(d) The term “Netherlands corporation” means a corporation, association or other organization or juridical entity created in the Netherlands or under the laws of the Netherlands.

(e) The terms “corporation of one Contracting State” and “corporation of the other Contracting State” mean a United States corporation or a Netherlands corporation, as the context requires.

(f) The term “United States enterprise” means an industrial or commercial enterprise or undertaking carried on in the United States by a citizen or resident of the United States or by a United States corporation.

(g) The term “Netherlands enterprise” means an industrial or commercial enterprise or undertaking carried on in the Netherlands by a citizen or resident of the Netherlands or by a Netherlands corporation.

(h) The terms “enterprise of one of the Contracting States” and “enterprise of the other Contracting State” mean a United States enterprise or a Netherlands enterprise, as the context requires.

(i) The term “permanent establishment”, when used with respect to an enterprise of one of the Contracting States, means a branch, factory, or other fixed place of business, but does not include an agency unless the agent has, and habitually exercises, a general authority to negotiate and conclude contracts on behalf of such enterprise or has a stock of merchandise from which he regularly fills orders on behalf of such enterprise. An enterprise of one of the Contracting States shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business dealings in such other Contracting State through a *bona fide* commission agent, broker or custodian acting in the ordinary course of his business as such. The fact that an enterprise of one of the Contracting States maintains in the other Contracting State a fixed place of business exclusively for the purchase of goods or merchandise shall not of itself constitute such fixed place of business a permanent establishment of such enterprise. When a corporation of one Contracting State has a subsidiary corporation which is a corporation of the other Contracting State or which is engaged in trade or business in such other Contracting State, such subsidiary corporation shall not, merely because of that fact, be deemed to be a permanent establishment of its parent corporation.

(j) The term “competent authority” or “competent authorities” means, in the case of the United States, the Commissioner of Internal Revenue or his duly authorized representative; in the case of the Netherlands, the Directeur-General der Belastingen or his duly authorized representative; and,

in the case of any part or territory to which provisions of the present Convention are extended under Article XXVII, the competent authority for the administration in such part or territory of the taxes to which such provisions apply.

(2) In the application of the provisions of the present Convention by either of the Contracting States, any term which is not defined in the present Convention shall, unless the context otherwise requires, have the meaning which that term has under the laws of such Contracting State relating to the taxes which are the subject of the present Convention.

ARTICLE III

(1) An enterprise of one of the Contracting States shall not be subject to taxation by the other Contracting State in respect of its industrial or commercial profits unless it is engaged in trade or business in the other Contracting State through a permanent establishment situated therein. If it is so engaged the other Contracting State may impose the tax only upon the income of such enterprise from sources within such other State.

(2) Where an enterprise of one of the Contracting States is engaged in trade or business in the other Contracting State through a permanent establishment situated therein, there shall be attributed to such permanent establishment the industrial or commercial profits which it might be expected to derive if it were an independent enterprise engaged in the same or similar activities under the same or similar conditions and dealing at arm's length with the enterprise of which it is a permanent establishment, and the profits so attributed shall, subject to the law of such other Contracting State, be deemed to be income from sources within such other Contracting State.

(3) In determining the industrial or commercial profits from sources within one of the Contracting States of an enterprise of the other Contracting State, no profits shall be deemed to arise from the mere purchase of goods or merchandise within the former Contracting State by such enterprise.

(4) The competent authorities of the Contracting States may lay down rules by agreement for the apportionment of industrial or commercial profits.

ARTICLE IV

Where an enterprise of one of the Contracting States, by reason of its participation in the management, control or capital of an enterprise of the other Contracting State, makes with or imposes on the latter enterprise, in their commercial or financial relations, conditions different from those which would be made with an independent enterprise, any profits which would, but for those conditions, have accrued to one of the enterprises, may be included in the taxable profits of that enterprise.

ARTICLE V

Income of whatever nature derived from real property and interest from mortgages secured by real property shall be taxable only in the Contracting State in which the real property is situated.

ARTICLE VI

(1) Income which an enterprise of one of the Contracting States derives from the operation of ships or aircraft registered in that State shall be taxable only in the State in which such ships or aircraft are registered. Income derived by such an enterprise from the operation of ships or aircraft not so registered shall be subject to the provisions of Article III.

(2) The present Convention shall be deemed to suspend, for the duration of the Convention as between the parties to which this Article applies, the provisions of the arrangement effected by exchange of notes between the United States and the Netherlands, dated September 13, October 19, and November 27, 1926,⁶ providing for relief from double income taxation on shipping profits.

(3) In the event that the application of this Article is extended to the Netherland Indies in accordance with Article XXVII, the exchange of notes between the United States and the Netherlands, dated March 8, May 23, and November 8, 1939,⁷ relating to the applications to the Netherland Indies of the arrangement referred to in paragraph (2) of this Article, shall be deemed to be suspended for so long as this Article continues to be applicable with respect to the Netherland Indies.

ARTICLE VII

(1) The rate of United States tax on dividends derived from a United States corporation by a resident or corporation of the Netherlands not engaged in trade or business in the United States through a permanent establishment shall not exceed 15 percent: Provided that such rate of tax shall not exceed 5 percent if such Netherlands corporation controls, directly or indirectly, at least 95 percent of the entire voting power in the corporation paying the dividend, and not more than 25 percent of the gross income of such paying corporation is derived from interest and dividends, other than interest and dividends from its own subsidiary corporation. Such reduction of the rate to 5 percent shall not apply if the relationship of the two corporations has been arranged or is maintained primarily with the intention of securing such reduced rate.

(2) Dividends derived from sources within the Netherlands by a resident or corporation of the United States not engaged in trade or business in the

⁶ EAS 11, *ante*, p. 85.

⁷ Not printed.

Netherlands through a permanent establishment shall be exempt from Netherlands tax.

(3) Either of the Contracting States may terminate this Article, by giving written notice of termination to the other Contracting State through diplomatic channels, on or before the thirtieth day of June in any year after the first year for which the present Convention becomes effective. In such event this Article shall cease to be effective on and after the first day of January in the year next following that in which such notice is given.

ARTICLE VIII

(1) Interest (on bonds, securities, notes, debentures, or on any other form of indebtedness), other than interest referred to in Article V of the present Convention, derived from sources within the United States by a resident or corporation of the Netherlands not engaged in trade or business in the United States through a permanent establishment, shall be exempt from United States tax; but such exemption shall not apply to such interest paid by a United States corporation to a Netherlands corporation controlling, directly or indirectly, more than 50 percent of the entire voting power in the paying corporation.

(2) Interest (on bonds, securities, notes, debentures, or on any other form of indebtedness), other than interest referred to in Article V of the present Convention, derived from sources within the Netherlands by a resident or corporation of the United States not engaged in trade or business in the Netherlands through a permanent establishment, shall be exempt from Netherlands tax; but such exemption shall not apply to such interest paid by a Netherlands corporation to a United States corporation controlling, directly or indirectly, more than 50 percent of the entire voting power in the paying corporation.

ARTICLE IX

Royalties for the right to use copyrights, patents, designs, secret processes and formulae, trade marks, and other analogous property, and royalties, including rentals, in respect of motion picture films or for the use of industrial, commercial or scientific equipment, derived from sources within one of the Contracting States by a resident or corporation of the other Contracting State not engaged in trade or business in the former State through a permanent establishment, shall be exempt from tax imposed by the former State.

ARTICLE X

A resident or corporation of one of the Contracting States, deriving from sources within the other Contracting State royalties in respect of the operation of mines, quarries, or natural resources, or rentals from real property, may elect for any taxable year to be subject to the tax of such other Contracting State, on a net basis, as if such resident or corporation were engaged in trade

or business within such other Contracting State through a permanent establishment therein during such taxable year.

ARTICLE XI⁸

A resident or corporation of one of the Contracting States not engaged in trade or business in the other Contracting State shall be exempt from tax in such other State on gains from the sale or exchange of capital assets.

ARTICLE XII

Dividends and interest paid by a Netherlands corporation shall be exempt from United States tax except where the recipient is a citizen, resident, or corporation of the United States.

ARTICLE XIII⁸

A Netherlands corporation shall be exempt from United States tax on its accumulated or undistributed earnings, profits, income or surplus if it can prove to the satisfaction of the competent authorities of the United States that individuals who are residents of the Netherlands (other than citizens of the United States) control, directly or indirectly, throughout the last half of the taxable year, more than 50 percent of the entire voting power in such corporation.

ARTICLE XIV⁹

(1) The United States income tax liability for any taxable year beginning prior to January 1, 1936 of any individual (other than a citizen of the United States) resident in the Netherlands, or of any Netherlands corporation, remaining unpaid on the effective date of the present Convention, may be adjusted on a basis satisfactory to the United States Commissioner of Internal Revenue: Provided that the amount to be paid in settlement of such liability shall not exceed the amount of the liability which would have been determined if

(a) the United States Revenue Act of 1936¹⁰ (except in the case of a Netherlands corporation in which more than 50 percent of the entire voting power was controlled, directly or indirectly, throughout the latter half of the taxable year, by citizens or residents of the United States), and

(b) Articles XII and XIII of the present Convention, had been in effect for such year. If the taxpayer was not, within the meaning of such Revenue Act, engaged in trade or business in the United States and had no office or place of business therein during the taxable year, the amount of interest and

⁸ Articles XI and XIII deemed deleted. See U.S. reservations, footnote 1, *ante*, p. 225, and protocol of Dec. 1, 1948, p. 238.

⁹ Article XIV deemed amended. See U.S. reservations, footnote 1, *ante*, p. 225, and protocol of Dec. 1, 1948, p. 238.

¹⁰ 49 Stat. 1648.

penalties shall not exceed 50 percent of the amount of the tax with respect to which such interest and penalties have been computed.

(2) The United States income tax unpaid on the effective date of the present Convention for any taxable year beginning after December 31, 1935 and prior to the effective date of the Present Convention in the case of an individual (other than a citizen of the United States) resident of the Netherlands, or in the case of any Netherlands corporation, shall be determined as if the provisions of Articles XII and XIII of the present Convention had been in effect for such taxable year.

(3) The provisions of paragraph (1) of this Article shall not apply

(a) unless the taxpayer files with the Commissioner of Internal Revenue within a period of two years following the effective date of the Present Convention a request that such tax liability be so adjusted and furnishes such information as the Commissioner may require; or

(b) in any case in which the Commissioner is satisfied that any deficiency in tax is due to fraud with intent to evade the tax.

ARTICLE XV

(1) Wages, salaries and similar compensation, and pensions and life annuities, paid either directly by, or from funds created by, one of the Contracting States or the political subdivisions or territories thereof to individuals in the other Contracting State shall be exempt from taxation in the latter State.

(2) Private pensions and life annuities derived from within one of the Contracting States and paid to individuals in the other Contracting State shall be exempt from taxation in the former State.

(3) The term "pensions" as used in this Article means periodic payments made in consideration for services rendered or by way of compensation for injuries received.

(4) The term "life annuities" as used in this Article means a stated sum payable periodically at stated times during life, or during a specified number of years, under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

ARTICLE XVI

(1) A resident of the Netherlands shall be exempt from United States tax upon compensation for labor or personal services performed within the United States if he is temporarily present within the United States for a period or periods not exceeding a total of one hundred eighty-three days during the taxable year and his compensation is received for labor or personal services performed as a worker or employee of, or under contract with,

a resident of the Netherlands, or a Netherlands corporation, carrying the actual burden of the remuneration.

(2) The provisions of paragraph (1) of this Article shall apply, *mutatis mutandis*, to a resident of the United States deriving compensation for labor or personal services performed within the Netherlands.

ARTICLE XVII

Professors or teachers, residents of one of the Contracting States, who, in accordance with agreements between the Contracting States or between teaching establishments in the Contracting States for the exchange of professors and teachers, visit the other Contracting State to teach, for a maximum period of two years, in a university, college or other teaching establishment in such other Contracting State, shall not be taxed by such other State with respect to the remuneration which they receive for such teaching.

ARTICLE XVIII

Students or business apprentices of one Contracting State residing in the other Contracting State exclusively for purposes of study or for acquiring business experience shall not be taxable by the latter State in respect of remittances received by them from abroad for the purpose of their maintenance or studies.

ARTICLE XIX

(1) Notwithstanding any provisions of the present Convention (other than paragraph (1) of Article XV when applicable in the case of an individual who is deemed by each Contracting State to be a citizen thereof), each of the two Contracting States, in determining the taxes, including all surtaxes, of its citizens or residents or corporations, may include in the basis upon which such taxes are imposed all items of income taxable under its own revenue laws as though this Convention had not come into effect.

(2) As far as may be in accordance with the provisions of the United States Internal Revenue Code, the United States agrees to allow as a deduction from the income taxes imposed by the United States the appropriate amount of taxes paid to the Netherlands, whether paid directly by the taxpayer or by withholding at the source.

(3) As far as may be in accordance with the provisions of Netherlands law, the Netherlands agrees to allow a deduction from Netherlands tax with respect to income from sources within the United States, in order to take into account the Federal income taxes paid to the United States, whether paid directly by the taxpayer or by withholding at the source.

ARTICLE XX

(1) All persons who left the Netherlands between April 30, 1939 and December 31, 1945, inclusive (other than persons who were citizens of the

United States at the time of leaving the Netherlands or Netherlands subjects who by reason of their function as governmental officials in established service reside abroad and the members of their family living with them), and who are deemed to be taxpayers under the provisions of Netherlands law relating to the capital accretions tax or the extraordinary capital tax, and who became residents of the United States (according to the income tax law of the United States) during that period, and who did not return to the Netherlands on or before December 31, 1945 to resume residence in the Netherlands (according to the income tax law of the Netherlands), shall be taxable by the Netherlands:

(a) under the law relating to the capital accretions tax, only in respect of accretions arising from their property situated in the Netherlands (as defined in that law in the case of nonresidents) and from their activities in the Netherlands;

(b) under the law relating to the extraordinary capital tax, only in respect of their property situated in the Netherlands (as defined in that law in the case of nonresidents).

(2) All persons who left the Netherlands between April 30, 1939 and December 31, 1945, inclusive, and who were citizens of the United States at the time of leaving the Netherlands, and who are deemed to be taxpayers under the provisions of Netherlands law relating to the capital accretions tax or the extraordinary capital tax, and who became residents of the United States (according to the income tax law of the United States) on or before December 31, 1945, shall be taxable by the Netherlands:

(a) under the law relating to the capital accretions tax, only in respect of accretions arising from their property situated in the Netherlands (as defined in that law in the case of nonresidents) and from their activities in the Netherlands;

(b) under the law relating to the extraordinary capital tax, only in respect of their property situated in the Netherlands (as defined in that law in the case of nonresidents).

(3) The provisions of this Article shall be deemed to be effective as though the present Convention had entered into force on the effective date of the Netherlands law relating to the capital accretions tax or the extraordinary capital tax, as the case may be.

ARTICLE XXI

The competent authorities of the Contracting States shall exchange such information (being information which such authorities have in proper order at their disposal) as is necessary for carrying out the provisions of the present Convention or for the prevention of fraud or the administration of statutory

provisions against legal avoidance in relation to the taxes which are the subject of the present Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any person other than those concerned with the assessment and collection of the taxes which are the subject of the present Convention. No information as aforesaid shall be exchanged which would disclose any trade, business, industrial or professional secret or trade process.

ARTICLE XXII

(1) The Contracting States undertake to lend assistance and support to each other in the collection of the taxes which are the subject of the present Convention, together with interest, costs, and additions to the taxes and fines not being of a penal character.

(2) In the case of applications for enforcement of taxes, revenue claims of each of the Contracting States which have been finally determined may be accepted for enforcement by the other Contracting State and collected in that State in accordance with the laws applicable to the enforcement and collection of its own taxes. The State to which application is made shall not be required to enforce executory measures for which there is no provision in the law of the State making the application.

(3) Any application shall be accompanied by documents establishing that under the laws of the State making the application the taxes have been finally determined.

(4) The assistance provided for in this Article shall not be accorded with respect to the citizens, corporations, or other entities of the State to which application is made, except as is necessary to insure that the exemption or reduced rate of tax granted under the convention to such citizens, corporations or other entities shall not be enjoyed by persons not entitled to such benefits.

ARTICLE XXIII

(1) In no case shall the provisions of Article XXI and XXII be construed so as to impose upon either of the Contracting States the obligation

(a) to carry out administrative measures at variance with the regulations and practice of either Contracting State, or

(b) to supply particulars which are not procurable under its own legislation or that of the State making application.

(2) The State to which application is made for information or assistance shall comply as soon as possible with the request addressed to it. Nevertheless, such State may refuse to comply with the request for reasons of public policy or if compliance would involve violation of a trade, business, industrial or professional secret or trade process. In such case it shall inform, as soon as possible, the State making the application.

ARTICLE XXIV

Where the action of the revenue authorities of the Contracting States has resulted or will result in double taxation contrary to the provisions of the present Convention, the taxpayer shall be entitled to lodge a claim with the State of which he is a citizen or subject or, if he is not a citizen or subject of either of the Contracting States, with the State of which he is a resident, or, if the taxpayer is a corporation, with the State in which it is created or organized. Should the claim be upheld, the competent authority of such State shall undertake to come to an agreement with the competent authority of the other State with a view to equitable avoidance of the double taxation in question.

ARTICLE XXV

(1) The provisions of the present Convention shall not be construed to restrict in any manner any exemption, deduction, credit or other allowance accorded by the laws of one of the Contracting States in the determination of the tax imposed by such State.

(2) Should any difficulty or doubt arise as to the interpretation or application of the present Convention, the competent authorities of the Contracting States shall undertake to settle the question by mutual agreement.

(3) The citizens or subjects of one of the Contracting States shall not, while resident in the other Contracting State, be subjected therein to other or more burdensome taxes than are the citizens or subjects of such other Contracting State residing in its territory. The term "citizens" or "subjects" as used in this Article includes all legal persons, partnerships and associations deriving their status from, or created or organized under the laws in force in, the respective Contracting States. In this Article the word "taxes" means taxes of every kind or description whether national, federal, state, provincial or municipal.

ARTICLE XXVI

(1) The authorities of each of the Contracting States, in accordance with the practices of that State, may prescribe regulations necessary to carry out the provisions of the present Convention.

(2) With respect to the provisions of the present Convention relating to exchange of information and mutual assistance in the collection of taxes, the competent authorities may, by common agreement, prescribe rules concerning matters of procedure, forms of application and replies thereto, conversion of currency, disposition of amounts collected, minimum amounts subject to collection, and related matters.

ARTICLE XXVII

(1) Either of the Contracting States may, at the time of exchange of instruments of ratification or thereafter while the present Convention continues

in force, by a written notification of extension given to the other Contracting State through diplomatic channels, declare the desire of the government of any overseas part of the Kingdom (in the case of the Netherlands) or overseas territory (in the case of the United States), which imposes taxes substantially similar in character to those which are the subject of the present Convention, that the operation of the present Convention, either in whole or as to such provisions thereof as may be deemed to have special application, shall extend to such part or territory.

(2) In the event that a notification is given by one of the Contracting States in accordance with paragraph (1) of this Article, the present Convention, or such provisions thereof as may be specified in the notification, shall apply to any part or territory named in such notification on and after the first day of January following the date of a written communication through diplomatic channels addressed to such Contracting State by the other Contracting State, after such action by the latter State as may be necessary in accordance with its own procedures, stating that such notification is accepted in respect of such part or territory. In the absence of such acceptance, none of the provisions of the present Convention shall apply to such part or territory.

(3) At any time after the expiration of one year from the effective date of an extension made by virtue of paragraphs (1) and (2) of this Article, either of the Contracting States may, by a written notice of termination given to the other Contracting State through diplomatic channels, terminate the application of the present Convention to any part or territory to which the Convention, or any of its provisions, has been extended. In that case, the present Convention, or the provisions thereof specified in the notice of termination, shall cease to be applicable to the part or territory named in such notice of termination on and after the first day of January following the expiration of a period of six months after the date of such notice; provided, however, that this shall not affect the continued application of the Convention, or any of the provisions thereof, to the United States, to the Netherlands, or to any part or territory (not named in the notice of termination) to which the Convention, or such provision thereof, applies.

(4) For the application of the present Convention in relation to any part or territory to which it is extended by notification given by the United States or the Netherlands, references to "the United States" or to "the Netherlands" or to one or the other Contracting State, as the case may be, shall be construed to refer to such part or territory.

ARTICLE XXVIII

(1) The present Convention shall be ratified and the instruments of ratification shall be exchanged at Washington as soon as possible.

(2) The present Convention shall become effective on the first day of January in the year last preceding the year in which the exchange of instru-

ments of ratification takes place. It shall continue effective for a period of five years beginning with that date and indefinitely after that period, but may be terminated by either of the Contracting States at the end of the five-year period or at any time thereafter, provided that at least six months' prior notice of termination has been given, the termination to become effective on the first day of January following the expiration of the six-month period.

DONE at Washington, in duplicate, in the English and Dutch languages, the two texts having equal authenticity, this 29th day of April, 1948.

For the Government of the United States of America:

G. C. MARSHALL [SEAL]

For the Government of the Kingdom of the Netherlands:

E. N. VAN KLEFFENS [SEAL]

PROTOCOL OF EXCHANGE OF RATIFICATIONS

The undersigned, Robert A. Lovett, Acting Secretary of State of the United States of America, and E. N. van Kleffens, Ambassador Extraordinary and Plenipotentiary of the Kingdom of the Netherlands to the United States of America, duly authorized thereto by their respective Governments, having met for the purpose of exchanging the instruments of ratification by their respective Governments of the convention between the United States of America and the Kingdom of the Netherlands for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and certain other taxes, signed at Washington on April 29, 1948, and the respective instruments of ratification of the convention aforesaid having been carefully compared and found to be in due form, the exchange took place this day.

The ratification by the Government of the United States of America of the convention aforesaid recites in their entirety the reservations contained in the resolution of June 17, 1948 of the Senate of the United States of America advising and consenting to ratification of the convention aforesaid, the texts of which reservations were communicated by the Government of the United States of America to the Government of the Kingdom of the Netherlands. The Government of the Kingdom of the Netherlands has accepted the reservations aforesaid. Accordingly, it is the understanding of both Governments that Article XI and Article XIII of the convention aforesaid shall be deemed to be deleted and of no effect and further that, with respect to Article XIV, there shall be deemed to be deleted therefrom and of no effect (a) all references therein to Article XIII and (b) any language which might prevent the taxation of capital gains, if any, taxable under the revenue laws of either of the two Governments for the respective years in which such gains were realized.

IN WITNESS WHEREOF, the respective Plenipotentiaries have signed the present Protocol of Exchange of Instruments of Ratification.

DONE in duplicate, in the English and Dutch languages, at Washington this first day of December, 1948.

For the Government of the United States of America :

ROBERT A. LOVETT

For the Government of the Kingdom of the Netherlands:

E. N. VAN KLEFFENS